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ATT: MRS NANCY JOHNSON pls

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PETITIONS OFFICE

by faxed request  
from uspto to cis ps

## Attachment III: Template Petition to Revive Filed by a Pro se Applicant

## In re Application of BAHDAINI

Application No. 09/582,634

Filing date: 9/13/00

Group Art Unit: 3748

Attention: Office of Petitions  
 Fax to: (703) 308-6916; or  
 Mail to: Commissioner for Patents  
 Box DAC  
 P.O. Box 2327  
 Arlington, VA 22202

Petition for Revival of an Application Abandoned Unavoidably  
under 37 CFR 1.137(e) filed by a Pro se Applicant(s)

Applicant(s) hereby petitions for revival of the above-identified application.

Adequate Showing of the Cause of Unavoidable Delay:

A reply to the Office action (or notice) was deposited with the United States Postal Service (or if mailed from outside of the United States, with another mail service) on 9/19/01, at least one week prior to the expiration of the reply period. The reply was received in the USPTO but was untimely due to unforeseeable mail delays. The reply would have been timely and normally received in the USPTO between October 13, 2001 and January 2, 2002, but for the mail delay. The applicant is prosecuting the application without assistance of a registered practitioner.

The reply was received by the USPTO on a subsequent mailing on 4/23/02 in response to a letter mailed from this office on 3/26/02 indicating that applicant's response was not received by this office.

Payment of petition fee:  
(\$110 or \$55 if applicant(s) has established entitlement to small entity status)

- Authorization to charge the petition fee to a credit card (e.g., a completed form PTO-2038) is enclosed herewith.
- The Commissioner is hereby authorized to charge the petition fee to Deposit Account No. \_\_\_\_\_.
- Check in the amount of \$ 55 Cash is enclosed.

June 04, 2002

Date

Signature(s) of all the applicant(s)

Shirwan AL PASHA AL BAHDAINI

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ATT: Mrs. NANCY JONSON pls. 4Ps

*Copy*: Fax message (4 Pages) on 26 Aug 2002 from / Shirwan AL PASHA AL BAHDAINI  
 28 Av. Pictet de Rochemont  
 CH-1207 Geneva - SWITZERLAND  
 Tel-Fax : + 41 22 736 07 48  
 SIIRWO SYSTEM // Int. App. PCT/IB 99/00178  
 USPTO : Serial No. Cnfrm. No. Filing Date  
 09/582, 634

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PETITION'S OFFICE

Att. Mr. Thomas E. Denion  
 Supervisory Patent Examiner  
 Technology Center 3700

& Att. Mr. Paul A. Bell  
 PCT Special Programs Examiner  
 USPTO , PCT Special Programs Branch

Dear Sir(s) ,

In respect to your position(s) and USPTO, PCT Help Desk and PCT' programs to solve any confusion, I would like to draw the attention and declare this expected matter as it - maybe - a reason for the delay in sending a reply from the Petitions Office, hopefully I could get your comprehensive assistance to correct a confusion. It is the waiver USPTO Petition for Revival of an application abandoned Unavoidably. This waiver (under 37 CFR 1.37) consisting Paragraph for certificate of mailing or transmission , as it has been deposited with US Postal Service on the date shown ..etc. to USPTO commissioner for patents (top right hand rectangular on this waiver ).

As shown, this waiver should be certified by US postal agent - obviously- that who had received the postal surcharge from the applicant when sending the envelope with provided proofs . This is normally done for a destination under USA Postal Service.

But how about using this Paragraph for postal service outside USA .. !?

An application from Switzerland was sent to USPTO as PCT application, and for an extra ordinary reason its action reply was (unforeseeable) lost in USA however it was received officially by US Postal Service from the Swiss Postal Service as this has been proved officially by the recent sent documents on this application file.

This is PCT application action reply that came from outside US and has lost in USA. I think this Paragraph as it is drawn in this mentioned waiver, could not be workable outside USA destinations since the Non-American postal services depending on their official ways to certify a registered envelope and its delivery to US Post as addressed. The revival procedure considering USPTO regulations depending on USA mail for certificate this Paragraph , but in this case, it could cause -maybe- a pit of confusion for some bodies in Petitions Office and more even for US post to certificate the lost.

I would like to call your comprehensive dealing with PCT foreigner applications as entering USP office, to help in such a situation of mail lost and how the foreigner official postal mail certified the delivery to US post is a legitimate determination.

It is necessary to have assistance of PCT help desk and your position to declare this matter to the Petitions Office since it may depend on said waiver which still used to be valid only inside USA territories but certainly this Paragraph needs to be suitable to deal with PCT international applications under the new ( Globalization) principles.

I would like to suggest here - by your way - to USPTO in adding a declaration on this waiver mail Paragraph to consider PCT foreigner application and its official regional postal service legitimate certificate of a correspondence if has been lost in USA Post

Aiming from this declaration to prevent any confusion or delay on such a case .

Thank you with my appreciation ... I remain sincerely

Best regards

Yours Truly  
 Shirwan Al Pasha Al Bahdaini

SS \$ 142 \*

P  
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**SWISS POST**

## **Réclamation / Nachforschungsbegehren / Reclamo / Inquiry**

AT N.Y. N.JONSON  
CN 08

SUISSE

केवल वाल्यू डिक्लेरेशन के लिए रजिस्ट्रेशन की जरूरत नहीं है।

## 3. Terminal disclaimer with disclaimer fee

- Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/83).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

\_\_\_\_\_  
Date\_\_\_\_\_  
SignatureTelephone  
Number: (\_\_\_\_) \_\_\_\_\_\_\_\_\_\_  
Typed or printed name\_\_\_\_\_  
AddressEnclosures:  Fee Payment

- Reply
- Terminal Disclaimer Form
- Additional sheets containing statements establishing unintentional delay
- Other: \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

- deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.
- transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

\_\_\_\_\_  
Date\_\_\_\_\_  
Signature\_\_\_\_\_  
Type or printed name of person signing certificate



A/c: Mrs. Nancy UOHLSON pls

Application No. 09/582,634

filed 28 Aug

label, returned postcard receipt, and official notation entered by the USPS. The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

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The Office also has a well established and well publicized practice of providing a receipt for papers filed in the Office to PETITIONS OFFICE any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. A postcard receipt will not serve as *prima facie* evidence of receipt of any item not adequately itemized on the postcard. In addition, the mere incorporation by reference in the postcard receipt of the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items. See, MPEP 503.

Petitioner has provided no evidence that the response to the non-final Office action was filed in accordance with the provisions discussed above, i.e., 37 CFR 1.8 (certificate of mailing) or 37 CFR 1.10 (USPS Express Mail). Nor has petitioner provided a copy of a return postcard acknowledging Office receipt of the declaration. Accordingly, it can only be concluded that the declaration was not timely filed.

As a "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay within the meaning of 37 CFR 1.137(a). See, Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990).

Any renewed petition must be accompanied by evidence to establish that the response to the non-final Office action was timely mailed to the Office by means of USPS First Class mail or USPS Express Mail, or petitioner is required to supply a copy of a return postcard date-stamped by the Office acknowledging receipt of the response to the non-final Office action.

#### ALTERNATE VENUE

*It was USPS mistake that it did not take the normal date stamp*

Petitioner is strongly urged to file a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the

*because of complications due to the events of 11 Sep 01*

ATT: Mrs Nancy JOHNSON pls

Application No. 09/582,634

P 3

of letter 28Aug

the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence: (1) informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. The Office may require additional evidence to determine if the correspondence was timely filed. See, MPEP 711.03(c).

Under the provisions of 37 CFR 1.10(a), any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS.

Further, under 37 CFR 1.10(e), any person mailing correspondence addressed as set out in 37 CFR 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that: (1) the petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence; (2) the number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; (3) the petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to 37 CFR 1.10(d)(3) that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and (4) the petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing

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J hasn't

ATT: Mrs. NANCY TONSON pls.

4Ps

2/15/02, 6:30

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## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NUMBER	PILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
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**Notice of Untimely Reply and  
Instructions to File a Petition to Revive an Abandoned Application  
For Pro Se Applicants**

This letter is to notify applicant(s) that the reply to the prior Office communication mailed 4/15/02 is not timely filed in the above-identified application. Since the reply was filed without the benefit of 37 CFR 1.8 and 1.10, the certificate of mailing and "Express Mail" provisions, the reply is untimely because it was received by the Office after the expiration of the statutory period for reply set in the prior Office communication. The Office does not have the authority to treat such reply as timely. Accordingly, the above-identified application is abandoned. The reply has been placed in application file wrapper, but it has not been formally entered. Applicant is advised that the abandonment of this application may only be overcome by filing a petition to revive under 37 CFR 1.137. A petition to revive may be appropriate if applicant's failure to reply was either unavoidable or unintentional. The purported first reply to the outstanding office action mailed from Switzerland on 9/19/01 has not been received by this office.

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PETITIONS OFFICE

USPTO

Witnessing the facts

A

In view of the circumstances related to the unforeseeable mail delays caused by anthrax decontamination at the United States Postal Service (USPS) sorting station in Washington, D.C. between October 13, 2001 and January 2, 2002, and the fact that the reply would have been timely received if the delivery of the reply was not delayed by the USPS, applicant may petition to revive the above-identified application on the grounds that the failure to reply was unavoidable under 37 CFR 1.137(a). Such petition should be filed promptly within two months from the mail date of this letter. Applicant may complete the form enclosed with this letter and submit it with the appropriate petition fee to the Office of Petitions by facsimile at (703) 308-6916 or by mail at the address provided on the form.

Applicant is strongly encouraged to file any future correspondence with a certificate of mailing or transmission (form SB-92, a copy attached) in accordance with 37 CFR 1.8, in order for the correspondence to be considered timely based on the date of mailing (the date on the certificate of mailing), instead of the date of receipt, to avoid untimeliness caused by mail delays. After the application has been revived, applicant may also file any reply in the above-identified application by facsimile to the Technology Center at (703) [xxx-xxxx].

Thomas E Denion

Thomas E. Denion

Supervisory Patent Examiner  
Technology Center 3700

*ATT: Mrs NANCY JONSON pls.*

*(sp)* : Fax message / 4 pages

**From / Shirwan AL PASHA AL BAHDAINI**  
**28 Av. Pictet de Rochemont**  
**CH-1207 Geneva - SWITZERLAND**  
**Tel-Fax : + 41 22 736 07 48**  
**SHIRWO SYSTEM // Int. App. PCT/IB 99/00178**  
**USPTO : Serial No. Cnfrm. No. Filing Date**  
**09/582, 634**

**TO /**

**US PATENT AND TRADEMARK OFFICE**

Commissioner for Patents  
Washington , DC 20231

**ATT: Mr. Thomas DENION**

SUPERVISORY EXAMINER

Dear Sir,

GENEVA on 28 Sep. 01

Fax : 001 703 308 7763

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**SEP 20 2002**

1/.

Would you please recommend to check the arrival of my reply on your 1<sup>st</sup> action

which was mailed registered on 19-Sep. to USPTO as it would be shown.

Since this letter will normally take six days to reach your office, but regarding to the recent circumstances, a probable delay in the mail may occur in your region which needs to be considered.

**PETITIONS OFFICE**

2/.

Please find 3 documents to accompany the material of this mentioned letter :

A- Form (PTO 948) to amend the drawings as according to, which have been done.

B- Certificate in 2 letters from a well known US company to assure receiving of the fundamental legends of this application legally, as it may be a choice for the matter of affidavits to be issued directly by your authorisation (using the recent edition).

Thank you with best regards

*Shirwan Al Pasha Al Bahdani*  
Yours truly

Shirwan AL PASHA AL BAHDAINI

Enc. 3 documents.

Note : Please write my address (Street No, area code, city and the country ) completely for your correspondence.

\* Please use this Fax for any urgent requirement

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